

EDMUND G. BROWN JR., Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
CHRIS LEONG, State Bar No. 141079
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-2575
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2007 64998

ERIN M. SCHILLING, PT
10966 Culver Boulevard
Culver City, California 90230

A C C U S A T I O N

Physical Therapist License No. PT 25459

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
2. On or about August 25, 2000, the Board issued Physical Therapist License Number PT 25459 to Erin M. Schilling (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2609 of the Code states:

1 The board shall issue, suspend, and revoke licenses and approvals to practice
2 physical therapy as provided in this chapter.

3 5. Section 2660 of the Code states:

4 The board may, after the conduct of appropriate proceedings under the
5 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
6 probationary conditions upon any license, certificate, or approval issued under this chapter for
7 unprofessional conduct that includes, but is not limited to, one or any combination of the
8 following causes:

9 . . .

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist or physical therapy assistant. The record of
12 conviction or a certified copy thereof shall be conclusive evidence of that conviction.

13 . . .

14 (i) Conviction of a violation of any of the provisions of this chapter or of the
15 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or
16 assisting in or abetting the violating of, or conspiring to violate any provision or term of
17 this chapter or of the State Medical Practice Act.

18 . . .

19 6. Section 2661 of the Code states:

20 A plea or verdict of guilty or a conviction following a plea of nolo contendere
21 made to a charge of a felony or of any offense which substantially relates to the
22 qualifications, functions, or duties of a physical therapist is deemed to be a conviction
23 within the meaning of this article. The board may order the license suspended or
24 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the
25 judgement of conviction has been affirmed on appeal or when an order granting probation
26 is made suspending the imposition of sentence, irrespective of a subsequent order under
27 Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of
28 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing

1 the accusation, information, or indictment.

2 7. Section 2239 of the Code states:

3 (a) The use or prescribing for or administering to himself or herself, of any
4 controlled substance; or the use of any of the dangerous drugs specified in Section 4022,
5 or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or
6 injurious to the licensee, or to any other person or to the public, or to the extent that such
7 use impairs the ability of the licensee to practice medicine safely or more than one
8 misdemeanor or any felony involving the use, consumption, or self-administration of any
9 of the substances referred to in this section, or any combination thereof, constitutes
10 unprofessional conduct. The record of the conviction is conclusive evidence of such
11 unprofessional conduct.

12 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere
13 is deemed to be a conviction within the meaning of this section. The Division of Medical
14 Quality may order discipline of the licensee in accordance with Section 2227 or the
15 Division of Licensing may order the denial of the license when the time for appeal has
16 elapsed or the judgment of conviction has been affirmed on appeal or when an order
17 granting probation is made suspending imposition of sentence, irrespective of a
18 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such
19 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
20 aside the verdict of guilty, or dismissing the accusation, complaint, information, or
21 indictment.

22 8. California Code of Regulations, Title 16, section 1399.20, states:

23 For the purposes of denial, suspension or revocation of a license, pursuant to
24 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
25 considered to be substantially related to the qualifications, functions or duties of a person
26 holding a license under the Physical Therapy Practice Act if to a substantial degree it
27 evidences present or potential unfitness of a person to perform the functions authorized
28 by the license or approval in a manner consistent with the public health, safety or welfare.

1 Such crimes or acts shall include but not be limited to the following:

2 (a) Violating or attempting to violate, directly or indirectly, or assisting in or
3 abetting the violation of, or conspiring to violate any provision or term of the Physical
4 Therapy Practice Act.

5 . . .

6 (c) Violating or attempting to violate any provision or term of the Medical
7 Practice Act.

8 9. Section 2661.5 of the Code states:

9 (a) In any order issued in resolution of a disciplinary proceeding before the board,
10 the board may request the administrative law judge to direct any licensee found guilty of
11 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable
12 costs of the investigation and prosecution of the case.

13 (b) The costs to be assessed shall be fixed by the administrative law judge and
14 shall not in any event be increased by the board. When the board does not adopt a
15 proposed decision and remands the case to an administrative law judge, the
16 administrative law judge shall not increase the amount of the assessed costs specified in
17 the proposed decision.

18 (c) When the payment directed in an order for payment of costs is not made by
19 the licensee, the board may enforce the order of payment by bringing an action in any
20 appropriate court. This right of enforcement shall be in addition to any other rights the
21 board may have as to any licensee directed to pay costs.

22 (d) In any judicial action for the recovery of costs, proof of the board's decision
23 shall be conclusive proof of the validity of the order of payment and the terms for
24 payment.

25 (e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate
26 the license or approval of any person who has failed to pay all of the costs ordered under
27 this section.

28 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally

1 renew or reinstate for a maximum of one year the license or approval of any person who
2 demonstrates financial hardship and who enters into a formal agreement with the board to
3 reimburse the board within that one year period for those unpaid costs.

4 (f) All costs recovered under this section shall be deposited in the Physical
5 Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually
6 recovered or the previous fiscal year, as the board may direct.

7 FIRST CAUSE FOR DISCIPLINE

8 (Conviction of a Crime)

9 10. Respondent is subject to disciplinary action under Code sections 2660,
10 subdivision (d), and 2661, and California Code of Regulations, Title 16, section 1399.20,
11 subdivision (a), in that she was convicted of crimes substantially related to the qualifications,
12 functions, or duties of a physical therapist. The circumstances are as follows:

13 February 27, 2007 Conviction

14 A. On or about November 24, 2006, a California Highway Patrol Officer
15 responded to a traffic collision report. When the officer arrived at the scene of the
16 accident, he observed that respondent's vehicle was on its roof with moderate rollover
17 damage. Respondent returned to the scene of the accident and told the officer she had
18 gone to a friend's house to call for assistance after being struck by another vehicle. While
19 speaking with respondent, the officer detected an odor of alcohol on her breath and
20 person. He observed that respondent's eyes were red and glossy, and her speech was
21 slurred. She failed to successfully complete the field sobriety tests. Respondent was
22 arrested and charged with driving under the influence of alcohol. She was transported to
23 the Sheriff's station and was given breath tests. The results of the breath tests indicated
24 her blood alcohol concentrations were .16% and .17%.

25 B. On or about January 22, 2007, in Los Angeles County Superior Court
26 Complaint No. 7NW00234, respondent was charged with driving under the influence of
27 alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), a
28 misdemeanor (Count1) and Vehicle Code section 23152, subdivision (b), driving with

1 .08% or higher blood alcohol level, a misdemeanor (Count 2). It was also alleged that as
2 to Counts 1 and 2, respondent had a blood alcohol content of .15% or more. It was
3 further alleged that as to Counts 1 and 2, respondent had a prior conviction on
4 November 21, 2001, for driving with .08% or higher blood alcohol level.

5 C. On or about February 26, 2007, pursuant to a negotiated plea agreement,
6 respondent was convicted upon her plea of nolo contendere to driving with .08% or
7 higher blood alcohol level (Count 2), and she admitted her prior conviction. Proceedings
8 were suspended. Respondent was placed on probation for five years with the following
9 terms and conditions, among others: serve 96 hours in county jail (with credit for 25
10 hours), pay fines and assessments in the amount of \$1,964.00, complete an 18-month
11 second offender alcohol treatment program and complete the victim impact program
12 Mothers Against Drunk Driving. Count 1 of the complaint was dismissed.

13 November 21, 2001 Conviction

14 D. On or about August 4, 2001, Los Angeles County Deputy Sheriffs
15 conducted an enforcement stop after they observed respondent speeding and weaving in
16 and out of traffic lanes in area where pedestrians were leaving a nightclub. Upon contact
17 with respondent, one of the deputies noticed respondent's breath had a strong odor of
18 alcohol, her speech was slurred, and her pupils were dilated. She told the deputy sheriff
19 that she had about four drinks that evening. She failed to successfully complete the field
20 sobriety tests. Respondent was arrested and charged with driving under the influence of
21 alcohol. In a written statement to the Board, respondent admitted that on August 4, 2001,
22 she was driving home from a restaurant where she had consumed four drinks.

23 E. On or about September 13, 2001, in Los Angeles County Municipal Court
24 Complaint No. 1BH01373, respondent was charged with driving under the influence of
25 alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), a
26 misdemeanor (Count 1) and Vehicle Code section 23152, subdivision (b), driving with
27 .08% or higher blood alcohol level, a misdemeanor (Count 2).

28 F. On or about November 21, 2001, pursuant to a negotiated plea agreement,

1 respondent was convicted upon her plea of nolo contendere to driving with .08% or
2 higher blood alcohol level (Count 2). Proceedings were suspended. Respondent was
3 placed on probation for three years with the following terms and conditions, among
4 others: pay fines and assessments in the amount of \$1,200.00 and complete a 3-month
5 licensed first offender alcohol treatment program. Her driving privilege was restricted for
6 90 days. Count 1 of the complaint was dismissed.

7 SECOND CAUSE FOR DISCIPLINE

8 (Use of Alcohol in a Dangerous Manner)

9 11. Respondent is subject to disciplinary action under Code section 2239 and
10 Code California Code of Regulations, Title 16, section 1399.20, subdivision (c), for using
11 alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to herself,
12 or to any other person or to the public. The facts and circumstances set forth in Paragraph 10 of
13 this Accusation are incorporated herein by reference.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Physical Therapist License Number PT 25459
5 issued to Erin M. Schilling;

6 2. Ordering Erin M. Schilling to pay the Board the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 2661.5; and

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: September 7, 2007

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13 Original Signed By:
14 STEVEN K. HARTZELL
15 Executive Officer
16 Physical Therapy Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 LA2007501664

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